REMARKS

Claims 1-8, 16,17, 19-23, 34-37, 40-46, and 49-79 are hereby cancelled by this amendment. New claims 80-100 are presented. Support for claims 80-100 can be found throughout the specification and in particular in the third paragraph on page 3 (lines 18-27), in the third paragraph on page 16 (lines 19-32) and on pages 17-20.

Election/Restrictions

Applicant acknowledges that The Examiner has withdrawn the restriction/election requirement of August 1, 2006.

Claim Rejections – 35 U.S.C. § 103

The Examiner has rejected claims 1-8, 16,17, 19-23, 34-37, 40-46, and 49-79 under 35 U.S.C. § 103 as being obvious over International Publication No. WO 98/50028 by Gregg et al. ("Gregg") in view of Applicants' 'admission'. According to the Examiner, Gregg describes the elected species identified by BMS-201,238 in a pharmaceutical composition and a method of treating atherosclerosis, pancreatitis, hyperglycemia and obesity. The Examiner states that atherosclerosis and diabetes are recognized to have inflammatory components. According to the Examiner, Applicants have admitted on the record that the practice of "one method for tissue type is exactly the same as practicing it for another tissue type" and therefore the claimed invention is obvious over Gregg.

Respectfully, the Examiner has improperly relied on Applicants so-called 'admission' in rejecting the claims and has failed to make out a prima facie case for rejecting the claims. It is requested that the rejection be withdrawn. However, in the interest of advancing prosecution, Applicant has cancelled claims 1-8, 16,17, 19-23, 34-37, 40-46, and 49-79 and presented new claims 80-100.

Gregg teaches administering MTP inhibitors in combination with a fat soluble vitamin to subjects having atherosclerosis. Gregg's teaching is based upon what was already known in the art, that is, MTP binds and transfers lipids to apoB, and such transfer can lead to atherosclerosis and aberrant fat metabolism.

Applicants, on the other hand, were the first to demonstrate a separate and distinct function of MTP. Specifically, Applicants demonstrated that MTP binds and transfers phospholipid to CD1-d. This results in activation of T cells and in inflammation. These effects (and the clinical possibilities that flow from these effects) were neither shown nor suggested by Gregg. Respectfully, any suggestion that it would have been obvious, based on Gregg, to administer a MTP inhibitor to a subject having any disorder other than atherosclerosis and lipid metabolism disorders is an improper application of hindsight based on Applicants' disclosure.

The Examiner suggests that obviousness arises from an admission by Applicants during prosecution that " 'one method for tissue type is exactly the same as practicing it for another tissue type' and therefore the claimed invention is obvious over Gregg." Respectfully, the 'admission' is mischaracterized by the Examiner.

The Applicants argued, in response to the restriction requirement, that *based on Applicants' discovery,* there is a common pathway and mechanism that unites the presently claimed invention. That mechanism was neither known or suggested in the prior art, and Applicants have made no such admission that this newly discovered pathway/mechanism was known in the prior art. Indeed, they have declared this to be their invention, as claimed by the new claims 80-100.

It therefore is requested that the rejection be withdrawn. In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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